

1                               BEFORE THE  
2                               ILLINOIS COMMERCE COMMISSION

3           IN THE MATTER OF:                               )  
4                               ILLINOIS COMMERCE COMMISSION                               )  
5           On Its Own Motion                               )  
6                               ) No. 03-0767  
7           Investigation into the proper                               )  
8           allocation of line extension and                               )  
9           service of installation costs.                               )  
10                               )

11                               Chicago, Illinois  
12                               February 8, 2005

13           Met, pursuant to notice, at 1:00 p.m.

14   BEFORE:

15           MR. IAN BRODSKY and MS. BERNADETTE COLE,  
16           Administrative Law Judges

17   APPEARANCES:

18           MR. JOHN FEELEY and MR. VLADAN MILOSEVIC  
19           160 North LaSalle Street  
20           Suite C-800  
21           Chicago, Illinois 60601  
22           appearing for Staff;

              MS. SIMONE BYVOETS  
              10 South Dearborn Street  
              35th Floor  
              Chicago, Illinois 60603  
              appearing for Commonwealth Edison Company;

              McGUIRE WOODS, LLP, by  
              MS. ELIZABETH RITSCHERLE  
              77 West Wacker Drive  
              Chicago, Illinois 60601  
              appearing for the Peoples Gas Light and  
              Coke Company and Northshore Gas Company;

1 APPEARANCES (continued):

2 MS. SARAH NAUMER  
3 8000 Sears Tower  
4 Chicago, Illinois 60606  
5 appearing for Northern Illinois Gas Company;

6 TROY A. FODOR, P.C., by  
7 MR. E.M. FULTON, JR. (via telephone)  
8 913 South Sixth Street  
9 Springfield, Illinois  
10 appearing for  
11 Homebuilder's Association of Illinois;

12 MS. KAREN HUIZENGA (via telephone)  
13 106 East 2nd Street  
14 Davenport, Iowa 52801  
15 appearing for MidAmerican Energy Company;

16 MS. JENNIFER MOORE (via telephone)  
17 200 First Street, S.E.  
18 Cedar Rapids, Iowa 52406  
19 appearing for Interstate Power and Light  
20 Company and South Beloit Water, Gas and  
21 Electric;

22 MR. EDWARD FITZHENRY (via telephone)  
Mail Code 1310  
Ingles, Missouri 63103  
appearing for The Ameren Companies;

ALSO PRESENT:

MR. PETER LAZAR (via telephone)  
MR. CARL (via telephone)

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21 SULLIVAN REPORTING COMPANY, by  
22 Rocio Garcia, CSR  
License No. 084-004387

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|-------------------|---------------|--------------|---------------|--------------|-----------------|
|                   |               |              | Re-           | Re-          | By              |
| <u>Witnesses:</u> | <u>Direct</u> | <u>Cross</u> | <u>direct</u> | <u>cross</u> | <u>Examiner</u> |

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| <u>Number</u> | <u>For Identification</u> | <u>In Evidence</u> |
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2 JUDGE BRODSKY: Pursuant to the authority of the  
3 Illinois Commerce Commission, I now call Docket  
4 03-0767. This is Illinois Commerce Commission on  
5 its own motion and its an investigation into the  
6 proper allocation of line extension and service of  
7 installation costs.

8 May I have the appearances for the  
9 record, please. I'll begin with Staff and then  
10 we'll stay in Chicago for just a moment.

11 MR. FEELEY: I represent Staff of the Illinois  
12 Commerce Commission, John Feeley and Vladan  
13 Milosevic, Illinois Commerce Commission. Address is  
14 160 North Lasalle Street, Suite C-800, Chicago,  
15 Illinois 60601.

16 MS. BYVOETS: Representing Commonwealth Edison,  
17 Simone Byvoets, 10 South Dearborn, Suite 35, Chicago  
18 60690.

19 MS. RITSCHERLE: Representing the Peoples Gas  
20 Light and Coke Company and Northshore Gas Company,  
21 Elizabeth Ritscherle, McGuire Woods, LLP, 77 West  
22 Wacker, Chicago, Illinois 60601.

1 MS. NAUMER: And appearing on behalf of Northern  
2 Illinois Gas Company, Sarah Naumer of the law firm  
3 Sonnenschein Nath & Rosenthal, 8000 Sears Tower,  
4 Chicago, Illinois 60606.

5 JUDGE BRODSKY: Okay. Thank you and appearances  
6 on the telephone, please.

7 MR. FULTON: E.M. Fulton with Troy A. Fodor,  
8 P.C., 913 South Sixth Street, Springfield, Illinois  
9 representing the Homebuilder's Association of  
10 Illinois.

11 MS. HUIZENGA: Karen Huizenga appearing on behalf  
12 of MidAmerican Energy Company, 106 East 2nd Street,  
13 Davenport, Iowa.

14 JUDGE BRODSKY: Would you spell your name,  
15 please.

16 MS. HUIZENGA: Sure. H- u- i- z- e- n- g- a.

17 MR. FITZHENRY: For the Ameren Companies, my name  
18 is Edward Fitzhenry, Post Office Box -- or mail code  
19 1310 Ingles (phonetic), Missouri 63103. Our  
20 telephone number is (314) 554-3533.

21 MS. MOORE: Appearing on behalf of Interstate  
22 Power and Light Company in South Beloit Water, Gas

1 and Electric, Jennifer Moore, 200 First Street S.E.,  
2 Cedar Rapids, Iowa, 52401. My phone number is  
3 (319) 786-4219.

4 JUDGE BRODSKY: Are there any other appearances?

5 A VOICE: Peter. . .

6 (Inaudible.)

7 JUDGE BRODSKY: Okay. All right. Is somebody  
8 trying to enter an appearance or is this just  
9 background chatter?

10 (No audible response.)

11 All right. Well, there are no other  
12 appearances. So this is a status hearing today. We  
13 met last December, I believe, and since then the  
14 agreement was provided for the record, as was -- it  
15 was a filing today, I believe, by the --  
16 Commonwealth Edison and Homebuilder's?

17 MS. BYVOETS: Yes, sir.

18 MR. FULTON: Yes, sir.

19 MS. BYVOETS: That's correct.

20 JUDGE BRODSKY: Okay. So my impression from  
21 these is that the matters are relatively in  
22 agreement and -- well, let me stop there for a

1 second.

2 Is that a correct impression?

3 MR. FULTON: Yes, I believe it is. This is E.M.  
4 Fulton.

5 MR. FEELEY: And for Staff, I think -- as between  
6 Staff and the Utilities, there's no issues.

7 JUDGE BRODSKY: Okay. Anybody else?

8 Okay. And then with respect to the  
9 filing between the Homebuilder's and Commonwealth  
10 Edison, my impression on that was that it looks like  
11 those matters are probably agreed at this point as  
12 well as --

13 MS. BYVOETS: Yes.

14 MR. FULTON: That is correct.

15 JUDGE BRODSKY: Okay. With that I had asked the  
16 last time that attention be given to the questions  
17 or posting the initiating order. And the agreement  
18 that was filed a few days ago seems to have done  
19 exactly that. So I think that answers the bulk of  
20 the questions that were posed in the initiating  
21 order.

22 At this point, did you have any questions

1 for the parties on --

2 JUDGE COLE: No.

3 JUDGE BRODSKY: Okay. I had just a couple and  
4 they're not -- well, the questions are simply to  
5 make sure that I have a clear understanding and so  
6 what I'm going to do is just make sure that  
7 agreement is correct then.

8 On page 2, this is under item B as in --  
9 B as in ball. The electric utilities -- it starts,  
10 The lines -- free electric line extensions. And  
11 then it gives a length.

12 Is it correct that with the length  
13 that -- that's sort of the default -- if it's a  
14 longer length that's needed that it becomes the  
15 consumers responsibility at that point for the  
16 amount over the length being discussed or am I  
17 misreading it totally?

18 MR. FEELEY: I'm sorry. What was the question  
19 again?

20 JUDGE BRODSKY: The question is, the lengths are  
21 prescribed 250 feet for an electric line. It seems  
22 that 100 and 200 feet for the gas line. And I just



1 want to clarify for myself if a longer amount is  
2 needed. Is that longer amount over those 250 or  
3 the -- for the electric line or the 100 or 200 feet  
4 for the gas line, is that longer amount the  
5 responsibility of the consumer at that point, the  
6 consumer ordering the line?

7 MR. FEELEY: I guess the utilities can jump in if  
8 I'm wrong but I think that second paragraph would  
9 describe that situation, can establish the process  
10 for negotiating alternative extension provisions  
11 such as one, you know, and there's an example given.

12 JUDGE BRODSKY: Okay. So it's not -- it's not an  
13 absolute length is what you're saying then?

14 MR. FEELEY: That's my understanding.

15 JUDGE BRODSKY: Okay. It's sort of a default  
16 rule; is that correct?

17 MS. BYVOETS: Yes.

18 MR. FEELEY: Yeah.

19 JUDGE BRODSKY: Okay.

20 MR. LAZAR: This is Peter Lazar (phonetic). I  
21 think the general cases needed 250 feet and that  
22 additional amounts would be paid by the customer

1 unless someone needing circumstances with prescribed  
2 would result. . .

3 JUDGE BRODSKY: Okay. So that still would  
4 square, though, with the prescribed default rule and  
5 then there being room for alternative arrangements  
6 if circumstances warrant. So I think that sounds  
7 like that was the agreement that was reached and so  
8 that clarifies my question as to that.

9 Turning to -- let me see. This is on the  
10 bottom of page 4 under additional issues. It's the  
11 second down paragraph and it says, Utilities may  
12 establish or continue offers of alternative  
13 nonrefundable payment options to applicants who do  
14 not desire to receive refunds over a ten year  
15 period.

16 Can you clarify for me when that would  
17 refer to -- or when that would be applicable and  
18 what it would refer to?

19 MR. FITZHENRY: Your Honor, this is Ed Fitzhenry  
20 for the Ameren Companies. Mr. Carl is here with me  
21 who could probably better explain that language than  
22 I so could I ask him to respond?

1 JUDGE BRODSKY: Go ahead.

2 MR. CARL: Generally where we have an error the  
3 Ameren Companies have a couple of distances, five  
4 year refund periods within a period of the tariffs  
5 by the Commission and the ability to offer to the  
6 customer who chooses not to have a possible refund,  
7 a lesser cost -- an overage cost, give them the  
8 choice of pay the higher cost which would be  
9 practical for a refund for ten years or pay the  
10 lower cost and waive that possibility of refunds.

11 JUDGE BRODSKY: Okay. Is there any comment from  
12 any of the other parties?

13 Okay. I'm just looking, as I said, for,  
14 you know, some clarifications just so that I fully  
15 understand the nature of the agreement.

16 And I -- you know, I appreciate that some  
17 of the questions may seem a little bit strange but  
18 please bare with me because I know you're familiar  
19 with working these items and workshops for months  
20 and tariffs, probably, for much longer period of  
21 time but it's not necessarily been the topic in this  
22 case quite yet. So that's why I'm asking these

1 items.

2                   Okay. Turning to the next page. I had a  
3 sort of a question as to what was meant by the last  
4 sentence in the electric utilities paragraph  
5 involving the addition of phases on existing  
6 electric lines will be treated as new line  
7 extensions.

8                   I'm assuming that you're just clarifying  
9 what qualifies under this provision versus what  
10 qualifies as other types of, essentially, utility  
11 claims that. . .

12       MR. FEELEY: Well, I guess following  
13 Mr. Fitzhenry.

14                   Peter, if you want to -- you want to  
15 expand on that one?

16       MR. LAZAR: Actually, this is a utility provision  
17 attached to -- by the utilities.

18       JUDGE BRODSKY: Go ahead.

19       MR. FITZHENRY: I believe this was a Commonwealth  
20 Edison Company --

21       THE COURT REPORTER: Who is that?

22       MR. FITZHENRY: -- suggest that --

1 THE COURT REPORTER: Who's speaking?

2 JUDGE BRODSKY: Mr. Fitzhenry.

3 Go ahead, Mr. Fitzhenry.

4 MR. FITZHENRY: As I was saying, I believe this  
5 particular language would suggest the -- by  
6 Commonwealth Edison Company.

7 JUDGE BRODSKY: Well, okay. Go ahead,  
8 Ms. Byvoets.

9 MS. BYVOETS: And I believe that this provision  
10 or this is just to clarify that if you have  
11 currently a -- say a residential customer served by  
12 single phase -- a single phase service and you have  
13 a new customer who's coming on, say a commercial  
14 customer, who requires additional phases that that  
15 is in deed a line extension that falls within the  
16 line extension rules. Because there are poles  
17 already existing. There is already some wire in the  
18 air but there are not enough wires to serve the  
19 needs of this new customer. So this point was to  
20 clarify that those should be treated -- the addition  
21 of the additional wires should be treated as a line  
22 extension.

1 JUDGE BRODSKY: Okay. And just as a fairly  
2 simple definition, would it be appropriate to say  
3 that additional phases is sort of analogous to  
4 additional capacity or additional -- how's the best  
5 way to define it?

6 MS. BYVOETS: It's actually additional phases.

7 JUDGE BRODSKY: Well --

8 MS. BYVOETS: It's --

9 JUDGE BRODSKY: Okay. But --

10 MR. FITZHENRY: Your Honor, this is Ed Fitzhenry.  
11 That would be additional lines.

12 JUDGE BRODSKY: Additional lines?

13 MR. FITZHENRY: Right, so the customer went from  
14 a single phase with three phase. What we're really  
15 talking about here -- Counsel pointed out additional  
16 line.

17 JUDGE BRODSKY: Okay. So these will be -- the  
18 additional lines would be those coming from  
19 essentially the pole or the transformer to the  
20 building?

21 MS. BYVOETS: Well, as an example, we may have --  
22 let's say there's a customer a mile away who's a

1 residential customer. There would be two wires  
2 hypothetically hanging on poles that go all the way  
3 to that customer.

4               Now there's a commercial customer who  
5 requires three-phase service. We have to -- ComEd  
6 would have to add additional wires in order to  
7 provide that customer with three-phase service. So  
8 you might be able to use the existing poles, you  
9 might have to upgrade them. And this is clarifying  
10 that if ComEd has to do that then that should be  
11 treated as a line extension.

12       JUDGE BRODSKY: Okay. So the phases are  
13 essentially wires on the pole and to the customer?

14       MS. BYVOETS: Correct.

15       JUDGE BRODSKY: Okay. Okay. That is clear to me  
16 now.

17               Now, just one sort of broad question and  
18 I'm going to pose this to anybody who wants to jump  
19 in. The underlying theme of the investigation  
20 initially is that maybe these should be uniform and  
21 that the result of this -- this agreement is that  
22 essentially while maybe they shouldn't be uniform or

1 at least not right now. And I'm just trying to  
2 identify what the main reasons for that conclusion  
3 would be. Is it customer demographics? Is it sort  
4 of a region serve as a utility specific set of  
5 reasons which varies from company to company or are  
6 there other factors that maybe I haven't named but  
7 that are apparent or discussed in the workshops and  
8 discussions?

9               If some of those could be identified for  
10 the record, I think that would probably be helpful  
11 to the underlying conclusion and that would set  
12 forth the attachment that's being moved by the  
13 general parties.

14       MR. FITZHENRY: Your Honor, this is Ed Fitzhenry  
15 again. I'll take a stab at it. I think you did  
16 actually touch on many of the reasons why, you know,  
17 the utilities in the workshop process and this rule  
18 making believe that there are reasons for different  
19 treatment of line extensions and how you determine  
20 those costs and so forth.

21               A good example, of course, would be  
22 Chicago and the highly condensed residential,



1 commercial area there as compared to say, you know,  
2 some area down in the rural area and, again, trying  
3 to come up with a uniform set of rules for each  
4 might be problematic.

5 JUDGE BRODSKY: Okay. Any other items?

6 All right. Well, I'd wanted to put the  
7 question just because I -- that was sort of my sense  
8 from the responses that had developed, and I wanted  
9 to provide an opportunity for comment on it to make  
10 sure that they were -- that that was in effect the  
11 correct impression.

12 Are there any other matters for this  
13 docket at this time?

14 MR. FEELEY: I guess the only thing would be the  
15 next step. I know it's Staff and I think the  
16 utilities want this agreement to be made part of a  
17 final order.

18 I'm not sure what the position of ComEd  
19 and the Homebuilder's and Ameren and the  
20 Homebuilder's are -- is with respect to their -- the  
21 agreements that they reached whether they want those  
22 to be made part of the final order.

1       MR. FULTON:   Speaking for Homebuilder's, we would  
2   like that to be in the final order.

3       JUDGE BRODSKY:   Wait.   But you want what's called  
4   Joint Parties Attachment A in the final order,  
5   that's sort of everybody.   But you want the  
6   agreements that you've reached with ComEd and with  
7   Ameren in the final order too?   That's what you're  
8   saying?

9       MR. FULTON:   Yes, either that or that they could  
10   be recited in the final orders.   Either way that'd  
11   be fine.

12       JUDGE BRODSKY:   Well --

13       MR. FITZHENRY:   Your Honor, this is Ed Fitzhenry.  
14   But -- if I could comment on that?

15       JUDGE BRODSKY:   Yes, please.

16       MR. FITZHENRY:   The agreement reached with the  
17   Homebuilder's was driven response to any questions  
18   that the ALJ has posed in this docket were not  
19   necessarily specific to the four or five questions  
20   that the Commission raised as the genesis for the  
21   rule making.

22                        I mean, it is an agreement that we have

1 with the Homebuilder's. We tend to honor the  
2 agreement. I don't know that the Commission is in  
3 the business of being -- of tending to the force.  
4 Private agreements between parties come before it.  
5 I guess that's the choice.

6                   At the least I do think that what  
7 Mr. Feeley filed last week ought to be reflected or  
8 be made part of the final order that he suggested  
9 but I have my doubts and reservations as to whether  
10 or not the Commission needs to find anything with  
11 regard to the agreement reached between the Ameren  
12 Companies and the HPAI.

13       JUDGE BRODSKY: I just comment also in a -- is  
14 they also had an agreement as of today.

15       MS. BYVOETS: I would agree with Mr. Fitzhenry.

16       JUDGE BRODSKY: Okay.

17       MR. FULTON: I don't agree with Mr. Fitzhenry,  
18 but I think that it would be appropriate to show the  
19 reason why we have reached agreement as to the  
20 various items and I think that would either be  
21 appropriate to be recited in the order or to attach  
22 the agreements. If you're going to attach the one

1 with Staff, you might as well attach all of them.

2 JUDGE BRODSKY: All right. Give us just a  
3 minute.

4 (Whereupon, a discussion  
5 was had off the record.)

6 JUDGE BRODSKY: All right.

7 MR. FULTON: I couldn't hear that, what was said.

8 JUDGE COLE: That was on purpose.

9 MR. FULTON: Oh, okay.

10 JUDGE BRODSKY: We were conferring momentarily  
11 and what we would like the three parties with the  
12 agreements, other than joint parties' Attachment A,  
13 to do is to brief why it should or should not be  
14 included in the final order.

15 Let's see. What we'll do in terms of a  
16 schedule for that -- what we're looking at, for  
17 that, is just two weeks for the initial brief. You  
18 can take a week for reply brief. It's sort of an  
19 optional reply brief and those days would end up  
20 being the 22nd of February and the first of March.

21 Are there any problems with those dates?

22 MR. FITZHENRY: No, your Honor.

1 MR. FULTON: No, your Honor.

2 MS. BYVOETS: No, your Honor.

3 JUDGE BRODSKY: Okay. So then that's what we'll  
4 do for those. Obviously, everybody else doesn't --  
5 they necessarily have to file on those -- in those  
6 days.

7 So turning back to the Joint Parties'  
8 Attachment A. I think our understanding at this  
9 point is that we will prepare a final order for the  
10 Commission discussing the findings of this  
11 proceeding and that it will include the content of  
12 the joint attachment since that's essentially the  
13 core of the proceeding to this point.

14 Is there anything to add?

15 JUDGE COLE: Not that I have.

16 JUDGE BRODSKY: Okay. Is there anything else  
17 from any of the parties at this point?

18 Okay. Hearing nothing -- I do have one  
19 last comment and I want to recognize the parties for  
20 the efforts that they've put in over the last year  
21 or so on this. I know it's taken a number of  
22 efforts at various times and so thank you for doing

1 that.

2           At this point, we will mark the record  
3 heard and taken, and I will await the filings from  
4 the entities and comment Ameren and Homebuilder's as  
5 to that issue that was discussed. Otherwise these  
6 proceedings at this point are adjourned and we will  
7 put together an order for the Commission's  
8 consideration.

9       MR. FULTON: Thank you, your Honors.

10       MR. FITZHENRY: Thank you.

11                       HEARD AND TAKEN

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